

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:09-CR-216-FL

UNITED STATES OF AMERICA)
)
 v.)
)
 DANIEL PATRICK BOYD, a/k/a)
 "Saifullah;")
 HYSEN SHERIFI;)
 ANES SUBASIC;)
 ZAKARIYA BOYD, a/k/a "Zak;")
 DYLAN BOYD, a/k/a "Mohammed;")
 MOHAMMAD OMAR ALY HASSAN;)
 and)
 ZIYAD YAGHI,)
)
 Defendants.)
)

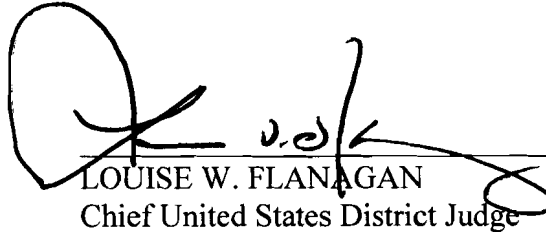
ORDER

This matter is before the court of its own initiative. On September 25, 2009, the government filed, with consent from defendants, a joint report of the parties' efforts to provide the court with a jointly proposed protective order governing sensitive but unclassified ("SBU") information. According to the joint report, the parties have achieved substantial agreement regarding the proposed protective order, but one significant dispute remains. Specifically, defendants do not object to the identification of certain discovery materials as SBU or to the requirement that defendants obtain court approval before disseminating SBU materials to third party witnesses or potential witnesses when the SBU material is not a statement by that third party witness or potential witness. Defendants object, however, to the government's proposal that the court, after notifying the defense and allowing defense the opportunity to withdraw its application to disseminate the particular SBU

item, may consult with the government regarding a defendant's dissemination request. The court's consultation with the government, defendants argue, would interfere with confidential defense planning and strategy. The government suggests that declassification of certain materials will not be granted unless the protective order allows the court to consult with the government regarding a defendant's request to disseminate SBU materials to a third party witness.

As this matter was not filed as a motion, but rather as a joint report, the parties have not submitted legal memoranda in support of their positions, as generally required by Local Criminal Rules 47.1, 47.2, EDNC. Before setting this matter for hearing or deciding the dispute at issue, the court requests supporting memoranda from the government and jointly from defendants, with particular emphasis on any legal precedent involving this issue. The government shall file its memorandum within 10 days of entry of this order, and defendants shall have 10 days thereafter to file a response.

SO ORDERED, this the 6th day of October, 2009.


LOUISE W. FLANAGAN
Chief United States District Judge